

## **815 KAR 7:110. Criteria for expanded local jurisdiction.**

RELATES TO: KRS 67A, 67C, 82.105(1), 83, 83A, 198B.040(7), 198B.050, 198B.060, 198B.070, 212.626(5), 236.318

STATUTORY AUTHORITY: KRS 198B.050(5), 198B.060(5), (6), (18)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.060(5) and (6) authorize a local government to petition the commissioner to request additional plan review and inspection functions to be allocated. This administrative regulation establishes the requirements for local building departments to request and be granted expanded building code plan review and inspection jurisdiction by the department.

Section 1. Definitions. (1) "Local governing body" means the chief governing body of a city, county, consolidated local government, or urban-county having legislative powers.

(2) "Local government" means:

- (a) A city, as established by KRS Chapters 67A, 67C, 83, and 83A;
- (b) A county, as defined by KRS 212.626(5);
- (c) A consolidated local government; and
- (d) An urban-county government.

Section 2. Uniform Criteria for Granting Expanded Jurisdiction. To apply for expanded jurisdiction pursuant to KRS 198B.060(5), a local government shall comply with the requirements established in this section.

(1) An authorized representative of a local government shall complete the Application for Local Expanded Jurisdiction, Form BCE/EJ #1, and submit it to the department together with the supporting documentation required by this administrative regulation.

(2) Certified inspectors required.

(a) The local government shall certify that it employs or contracts with a person, firm, or company to perform the plan reviews, specifications, and building inspection functions granted to the local government.

(b) The local government shall employ or execute a legal contract with at least one (1) person certified as a building inspector level III, pursuant to 815 KAR 7:070. The building inspector level III shall be responsible for reviewing plans, reviewing specifications, and performing building inspections.

(c) The local government shall employ or execute a legal contract with a certified electrical inspector to enforce the National Electric Code (NFPA 70) as adopted and incorporated into the Kentucky Building Code (815 KAR 7:120) and Kentucky Residential Code (815 KAR 7:125).

(3) Additional personnel. A complete list of code enforcement personnel, including the building inspector level III and certified electrical inspector, employed or contracted with to enforce the code within the expanded jurisdiction shall be submitted with the application. The list of personnel shall include the name, job title, and certification status of each individual.

(4) Construction activity. The local government shall provide documentation of the permits issued and fees collected for the previous calendar year, if any, and an estimation of the anticipated increase in activity if granted expanded jurisdictional authority.

(5) Local government contracts.

(a) If a local government associates with other local governments to share plan and specifications inspection or building functions pursuant to KRS 198B.060(15), the documentation of permit and fee activity required by subsection (4) of this section shall be provided by the applicant; or

(b) If a local government contracts with a person, firm, or company to provide plan and specification inspections or building inspection functions, and the person, firm, or company, the documentation of permit and fee activity required by subsection (4) of this section shall be provided by the applicant.

(6) Official contact person. The local government shall identify and provide the:

(a) Name and title of the chief building code official;

(b) Name of the department;

(c) Official mailing address;

(d) Phone number;

(e) Fax number; and

(f) E-mail address, if applicable.

(7) Inclusions and exclusions.

(a) Application for expanded jurisdiction pursuant to KRS 198B.060(5) shall include a:

1. List of each building occupancy classification and size for which expanded jurisdiction is requested;

2. List of each building occupancy classification and size for which expanded jurisdiction is not requested;

3. Copy of the local ordinance requiring single family dwelling plan review and inspection within the jurisdiction; and

4. Copy of the schedule of fees as adopted by the local governing body.

(b) The minimum responsibilities required by KRS 198B.060(2) shall be maintained by the local government, unless specifically agreed otherwise in writing between the local government and the department.

(8) State jurisdiction. The department shall retain plan review, inspection, and enforcement responsibility pursuant to the Kentucky Building Code, 815 KAR 7:120, for all buildings that are:

(a) Institutional buildings;

(b) Educational buildings, unless specifically agreed in writing by the local government and the department;

(c) Licensed facilities as mandated by the Cabinet for Health and Family Services, including day care centers, hospitals, and nursing homes;

(d) State-owned and state-leased buildings and facilities;

(e) High-hazard occupancies, unless specifically agreed in writing by the local government and the department; and

(f) Industrialized building systems (including modular homes), except for site placement and assembly of individual modular homes. A local government may permit placement and assembly locally. Local placement and assembly shall not commence until the local government submits written notification to the department for each placement.

Section 3. Procedures for Maintaining Expanded Jurisdiction. (1) The department shall monitor the program of each local government granted expanded jurisdiction responsibilities. If a local government is found to be in violation of the requirements of this administrative regulation, the Kentucky Building Code, 815 KAR 7:120, the Kentucky Residential Code, 815 KAR 7:125, the terms of the applicable expanded jurisdiction agreement, or KRS Chapters 198B, 236, or 318, the local government shall be subject to preemption, in whole or in part, by the department.

(2) Each agreement for expanded jurisdiction shall be in effect for three (3) years, unless:

(a) Canceled by agreement of the parties in writing; or

(b) Preempted in whole or in part pursuant to subsection (1) of this section.

(3)(a) The local government shall notify the department, within thirty (30) days of changes in personnel or fees during the terms of the agreement.

(b) Failure to notify the department of changes may result in the revocation of expanded jurisdiction responsibilities pursuant to KRS 198B.060(4).

(4) Before the expiration of the three (3) year agreement for expanded jurisdiction, the local jurisdiction shall submit a Renewable Application for Expanded Jurisdiction on Form BCE/EJ #2. The renewal application shall contain a:

(a) List of each building occupancy classification and size for which expanded jurisdiction is requested to continue;

(b) List of each building occupancy classification and size for which expanded jurisdiction is not requested;

(c) Copy of the local ordinance, if different than submitted with previous application requiring single family dwelling plan review and inspection within the jurisdiction; and

(d) Copy of the current schedule of fee as adopted by the local governing body.

(5) After receiving and reviewing the local government's application for renewal, the department shall:

(a) Reevaluate the building code enforcement program of the local government; and

(b) Either renew the local government's expanded jurisdiction or deny the renewal request within forty-five (45) days of receiving the local program's renewal application and supporting documentation.

(6) The department shall report to the Board of Housing, Buildings, and Construction the department's decision regarding the renewal of expanded building code enforcement program of the local government.

(7) The department shall retain plan review, inspection and enforcement responsibility pursuant to the Kentucky Building Code, 815 KAR 7:120, for all buildings as specified in the original agreement for expanded local jurisdiction with the local government.

Section 4. Local Appeals Board. (1) The local government with expanded jurisdiction may establish a local appeals board. A local appeals board shall operate in accordance with KRS 198B.070.

(2) If the local government establishes a local appeals board, the local government shall send a written notice to the department, which shall:

(a) Identify each member by name and qualifications for being appointed to the appeals board; and

(b) Include contact information for the local appeals board.

(3) If a local appeals board is not established, all costs incurred by the department and Board of Housing, Buildings, and Construction to conduct hearings for appeals filed pursuant to KRS 198B.070(5) shall be charged to the local government.

Section 5. One (1) and Two (2) Family Dwellings. (1) The local building inspection program shall not include the plan review and inspection for one (1) and two (2) family dwellings that are:

(a) Manufactured homes;

(b) Modular homes; or

(c) Farm dwellings.

(2) The local building inspection program shall include permits and inspections for the foundation system and other on-site construction related to modular home installations.

Section 6. Incorporation by Reference. (1) The following material incorporated by reference:

- (a) "Application for Local Expanded Jurisdiction", Form BCE/EJ #1, December 2012; and
- (b) "Renewal Application for Expanded Jurisdiction", Form BCE/EJ #2, December 2012.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m. (27 Ky.R. 1405; Am. 1812; eff. 1-15-2001; 34 Ky.R. 1224; 1739; eff. 2-1-2008; 37 Ky.R. 859; Am. 1209; eff. 11-17-2010; 39 Ky.R. 1503; 1886; eff. 4-5-2013.)